

(C) an offense under paragraph (5) of such subsection;

(2) a fine of<sup>1</sup> under this title or imprisonment for not more than three years, or both, if the offense is—

(A) any other production or transfer of an identification document or false identification document; or

(B) an offense under paragraph (3) of such subsection; and

(3) a fine of<sup>1</sup> under this title or imprisonment for not more than one year, or both, in any other case.

(c) The circumstance referred to in subsection (a) of this section is that—

(1) the identification document or false identification document is or appears to be issued by or under the authority of the United States or the document-making implement is designed or suited for making such an identification document or false identification document;

(2) the offense is an offense under subsection (a)(4) of this section; or

(3) the production, transfer, or possession prohibited by this section is in or affects interstate or foreign commerce, or the identification document, false identification document, or document-making implement is transported in the mail in the course of the production, transfer, or possession prohibited by this section.

(d) As used in this section—

(1) the term “identification document” means a document made or issued by or under the authority of the United States Government, a State, political subdivision of a State, a foreign government, political subdivision of a foreign government, an international governmental or an international quasi-governmental organization which, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals;

(2) the term “produce” includes alter, authenticate, or assemble;

(3) the term “document-making implement” means any implement or impression specially designed or primarily used for making an identification document, a false identification document, or another document-making implement;

(4) the term “personal identification card” means an identification document issued by a State or local government solely for the purpose of identification; and

(5) the term “State” includes any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any other commonwealth, possession or territory of the United States.

(e) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under chapter 224 of this title.

(Added Pub. L. 97-398, §2, Dec. 31, 1982, 96 Stat. 2009; amended Pub. L. 99-646, §44(a), Nov. 10, 1986, 100 Stat. 3601; Pub. L. 100-690, title VII, §7023, Nov. 18, 1988, 102 Stat. 4397; Pub. L. 101-647, title XII, §1205(e), Nov. 29, 1990, 104 Stat. 4831; Pub. L. 103-322, title XXXIII, §330016(1)(K), (M), (O), Sept. 13, 1994, 108 Stat. 2147, 2148.)

#### AMENDMENTS

1994—Subsec. (b)(1). Pub. L. 103-322, §330016(1)(O), substituted “under this title” for “not more than \$25,000”. Subsec. (b)(2). Pub. L. 103-322, §330016(1)(M), substituted “under this title” for “not more than \$15,000”. Subsec. (b)(3). Pub. L. 103-322, §330016(1)(K), substituted “under this title” for “not more than \$5,000”.

1990—Subsec. (d)(5). Pub. L. 101-647 inserted “commonwealth,” before “possession or territory of the United States”.

1988—Subsec. (a)(6). Pub. L. 100-690 inserted “knowingly” before “possesses”, “lawful” before first reference to “authority”, and “such” before second reference to “authority”.

1986—Subsec. (e). Pub. L. 99-646 substituted “chapter 224 of this title” for “title V of the Organized Crime Control Act of 1970 (18 U.S.C. note prec. 3481)”.

#### FRAUD AND RELATED ACTIVITY IN CONNECTION WITH IDENTIFICATION DOCUMENTS

Pub. L. 98-473, title II, §609L, Oct. 12, 1984, 98 Stat. 2103, provided that:

“(a) For purposes of section 1028 of title 18, United States Code, to the maximum extent feasible, personal descriptors or identifiers utilized in identification documents, as defined in such section, shall utilize common descriptive terms and formats designed to—

“(1) reduce the redundancy and duplication of identification systems by providing information which can be utilized by the maximum number of authorities, and

“(2) facilitate positive identification of bona fide holders of identification documents.

“(b) The President shall, no later than 3 years after the date of enactment of this Act [Oct. 12, 1984], and after consultation with Federal, State, local, and international issuing authorities, and concerned groups make recommendations [recommendations] to the Congress for the enactment of comprehensive legislation on Federal identification systems. Such legislation shall—

“(1) give due consideration to protecting the privacy of persons who are the subject of any identification system,

“(2) recommend appropriate civil and criminal sanctions for the misuse or unauthorized disclosure of personal identification information, and

“(3) make recommendations providing for the exchange of personal identification information as authorized by Federal or State law or Executive order of the President or the chief executive officer of any of the several States.”

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 922, 981, 982, 2257, 2326 of this title; title 8 section 1324a; title 22 section 2709; title 31 section 9703; title 42 section 5119a.

#### § 1029. Fraud and related activity in connection with access devices

(a) Whoever—

(1) knowingly and with intent to defraud produces, uses, or traffics in one or more counterfeit access devices;

(2) knowingly and with intent to defraud traffics in or uses one or more unauthorized access devices during any one-year period, and by such conduct obtains anything of value aggregating \$1,000 or more during that period;

(3) knowingly and with intent to defraud possesses fifteen or more devices which are counterfeit or unauthorized access devices;

(4) knowingly, and with intent to defraud, produces, traffics in, has control or custody of, or possesses device-making equipment;

(5)<sup>1</sup> knowingly and with intent to defraud uses, produces, traffics in, has control or custody of, or possesses a telecommunications instrument that has been modified or altered to obtain unauthorized use of telecommunications services; or<sup>2</sup>

(6)<sup>3</sup> knowingly and with intent to defraud uses, produces, traffics in, has control or custody of, or possesses—

(A) a scanning receiver; or

(B) hardware or software used for altering or modifying telecommunications instruments to obtain unauthorized access to telecommunications services,

(5)<sup>4</sup> knowingly and with intent to defraud effects transactions, with 1 or more access devices issued to another person or persons, to receive payment or any other thing of value during any 1-year period the aggregate value of which is equal to or greater than \$1,000;

(6)<sup>5</sup> without the authorization of the issuer of the access device, knowingly and with intent to defraud solicits a person for the purpose of—

(A) offering an access device; or

(B) selling information regarding or an application to obtain an access device; or

(7)<sup>6</sup> without the authorization of the credit card system member or its agent, knowingly and with intent to defraud causes or arranges for another person to present to the member or its agent, for payment, 1 or more evidences or records of transactions made by an access device;

shall, if the offense affects interstate or foreign commerce, be punished as provided in subsection (c) of this section.

(b)(1) Whoever attempts to commit an offense under subsection (a) of this section shall be punished as provided in subsection (c) of this section.

(2) Whoever is a party to a conspiracy of two or more persons to commit an offense under subsection (a) of this section, if any of the parties engages in any conduct in furtherance of such offense, shall be fined an amount not greater than the amount provided as the maximum fine for such offense under subsection (c) of this section or imprisoned not longer than one-half the period provided as the maximum imprisonment for such offense under subsection (c) of this section, or both.

(c) The punishment for an offense under subsection (a) or (b)(1) of this section is—

(1) a fine under this title or twice the value obtained by the offense, whichever is greater, or imprisonment for not more than ten years,

or both, in the case of an offense under subsection (a)(2), (3), (5), (6), or (7) of this section which does not occur after a conviction for another offense under either such subsection, or an attempt to commit an offense punishable under this paragraph;

(2) a fine under this title or twice the value obtained by the offense, whichever is greater, or imprisonment for not more than fifteen years, or both, in the case of an offense under subsection (a)(1), (4), (5), or (6) of this section which does not occur after a conviction for another offense under either such subsection, or an attempt to commit an offense punishable under this paragraph; and

(3) a fine under this title or twice the value obtained by the offense, whichever is greater, or imprisonment for not more than twenty years, or both, in the case of an offense under subsection (a) of this section which occurs after a conviction for another offense under such subsection, or an attempt to commit an offense punishable under this paragraph.

(d) The United States Secret Service shall, in addition to any other agency having such authority, have the authority to investigate offenses under this section. Such authority of the United States Secret Service shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury and the Attorney General.

(e) As used in this section—

(1) the term “access device” means any card, plate, code, account number, electronic serial number, mobile identification number, personal identification number, or other telecommunications service, equipment, or instrument identifier, or other means of account access that can be used, alone or in conjunction with another access device, to obtain money, goods, services, or any other thing of value, or that can be used to initiate a transfer of funds (other than a transfer originated solely by paper instrument);

(2) the term “counterfeit access device” means any access device that is counterfeit, fictitious, altered, or forged, or an identifiable component of an access device or a counterfeit access device;

(3) the term “unauthorized access device” means any access device that is lost, stolen, expired, revoked, canceled, or obtained with intent to defraud;

(4) the term “produce” includes design, alter, authenticate, duplicate, or assemble;

(5) the term “traffic” means transfer, or otherwise dispose of, to another, or obtain control of with intent to transfer or dispose of;

(6) the term “device-making equipment” means any equipment, mechanism, or impression designed or primarily used for making an access device or a counterfeit access device; and

(7)<sup>7</sup> the term “credit card system member” means a financial institution or other entity that is a member of a credit card system, including an entity, whether affiliated with or

<sup>1</sup> So in original. Another par. (5) is set out below.

<sup>2</sup> So in original. The word “or” probably should not appear.

<sup>3</sup> So in original. Another par. (6) is set out below.

<sup>4</sup> So in original. Probably should be “(7)”.

<sup>5</sup> So in original. Probably should be “(8)”.

<sup>6</sup> So in original. Probably should be “(9)”.

<sup>7</sup> So in original. Another par. (7) is set out below.

identical to the credit card issuer, that is the sole member of a credit card system.

(7)<sup>8</sup> the term “scanning receiver” means a device or apparatus that can be used to intercept a wire or electronic communication in violation of chapter 119.

(f) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States, or any activity authorized under chapter 224 of this title. For purposes of this subsection, the term “State” includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(Added Pub. L. 98-473, title II, §1602(a), Oct. 12, 1984, 98 Stat. 2183; amended Pub. L. 99-646, §44(b), Nov. 10, 1986, 100 Stat. 3601; Pub. L. 101-647, title XII, §1205(f), Nov. 29, 1990, 104 Stat. 4831; Pub. L. 103-322, title XXV, §250007, title XXXIII, §330016(2)(I), Sept. 13, 1994, 108 Stat. 2087, 2148; Pub. L. 103-414, title II, §206, Oct. 25, 1994, 108 Stat. 4291.)

#### AMENDMENTS

1994—Subsec. (a)(3). Pub. L. 103-322, §250007(1)(A), and Pub. L. 103-414, §206(a)(1), amended par. (3) identically, striking “or” at end.

Subsec. (a)(5). Pub. L. 103-414, §206(a)(2), added par. (5) relating to instruments that have been modified or altered to obtain unauthorized use of telecommunications services.

Pub. L. 103-322, §250007(1)(B), added par. (5) relating to transactions involving use of access devices issued to persons other than user.

Subsec. (a)(6). Pub. L. 103-414, §206(a)(2), added par. (6) relating to scanning receivers or other hardware or software used to obtain unauthorized access to telecommunications services.

Pub. L. 103-322, §250007(1)(B), added par. (6) relating to solicitations which offer access devices or information regarding access devices.

Subsec. (a)(7). Pub. L. 103-322, §250007(1)(B), added par. (7).

Subsec. (c)(1). Pub. L. 103-322, §330016(2)(I), substituted “fine under this title or twice the value obtained by the offense, whichever is greater, or imprisonment” for “fine of not more than the greater of \$10,000 or twice the value obtained by the offense or imprisonment”.

Pub. L. 103-322, §250007(2), substituted “(a)(2), (3), (5), (6), or (7)” for “(a)(2) or (a)(3)”.

Subsec. (c)(2). Pub. L. 103-414, §206(b), substituted “(a)(1), (4), (5), or (6)” for “(a)(1) or (a)(4)”.

Pub. L. 103-322, §330016(2)(I), substituted “fine under this title or twice the value obtained by the offense, whichever is greater, or imprisonment” for “fine of not more than the greater of \$50,000 or twice the value obtained by the offense or imprisonment”.

Subsec. (c)(3). Pub. L. 103-322, §330016(2)(I), substituted “fine under this title or twice the value obtained by the offense, whichever is greater, or imprisonment” for “fine of not more than the greater of \$100,000 or twice the value obtained by the offense or imprisonment”.

Subsec. (e)(1). Pub. L. 103-414, §206(c)(1), inserted “electronic serial number, mobile identification number, personal identification number, or other telecommunications service, equipment, or instrument identifier,” after “account number.”

Subsec. (e)(5), (6). Pub. L. 103-322, §250007(3)(A), (B), and Pub. L. 103-414, §206(c)(2), (3), amended subsec. (e)

identically, striking “and” at end of par. (5) and substituting “; and” for period at end of par. (6).

Subsec. (e)(7). Pub. L. 103-414, §206(c)(4), added par. (7) defining “scanning receiver”.

Pub. L. 103-322, §250007(3)(C), added par. (7) defining “credit card system member”.

1990—Subsec. (f). Pub. L. 101-647 inserted at end “For purposes of this subsection, the term ‘State’ includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.”

1986—Subsec. (f). Pub. L. 99-646 which directed that subsec. (f) be amended by substituting “chapter 224 of this title” for “title V of the Organized Crime Control Act of 1970 (18 U.S.C. note prec. 3481)” was executed by making the substitution for “title V of the Organized Crime Control Act of 1970) 18 U.S.C. note prec. 3481)” to reflect the probable intent of Congress.

#### REPORT TO CONGRESS

Section 1603 of Pub. L. 98-473 directed Attorney General to report to Congress annually, during first three years following Oct. 12, 1984, concerning prosecutions under this section.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 981, 982, 1030, 1961, 2326, 2516 of this title; title 31 section 9703.

### § 1030. Fraud and related activity in connection with computers

(a) Whoever—

(1) knowingly accesses a computer without authorization or exceeds authorized access, and by means of such conduct obtains information that has been determined by the United States Government pursuant to an Executive order or statute to require protection against unauthorized disclosure for reasons of national defense or foreign relations, or any restricted data, as defined in paragraph y. of section 11 of the Atomic Energy Act of 1954, with the intent or reason to believe that such information so obtained is to be used to the injury of the United States, or to the advantage of any foreign nation;

(2) intentionally accesses a computer without authorization or exceeds authorized access, and thereby obtains information contained in a financial record of a financial institution, or of a card issuer as defined in section 1602(n) of title 15, or contained in a file of a consumer reporting agency on a consumer, as such terms are defined in the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.);

(3) intentionally, without authorization to access any computer of a department or agency of the United States, accesses such a computer of that department or agency that is exclusively for the use of the Government of the United States or, in the case of a computer not exclusively for such use, is used by or for the Government of the United States and such conduct adversely affects the use of the Government’s operation of such computer;

(4) knowingly and with intent to defraud, accesses a Federal interest computer without authorization, or exceeds authorized access, and by means of such conduct furthers the intended fraud and obtains anything of value, unless the object of the fraud and the thing obtained consists only of the use of the computer;

<sup>8</sup> So in original. Probably should be “(8)”.